

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 28, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1319

Introduced by Assembly Member Butler

(Principal coauthor: Senator Pavley)

(Coauthors: Assembly Members Ammiano, Blumenfield, Bradford, Brownley, Campos, Davis, Dickinson, Eng, Fong, Gatto, Huffman, Lara, Bonnie Lowenthal, Ma, Skinner, and Williams)

(Coauthors: Senators Corbett, De León, and Liu)

February 18, 2011

An act to add ~~and repeal~~ Chapter 12 (commencing with Section 108940) ~~of to~~ Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1319, as amended, Butler. Product safety: bisphenol A.

Existing law, part of the hazardous waste control law, requires the Department of Toxic Substances Control to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being chemicals of concern and to adopt regulations to establish a process by which chemicals of concern may be evaluated. The department is prohibited from duplicating or adopting conflicting regulations for regulated product categories. A violation of the hazardous waste control law is a crime.

The bill would enact the Toxin-Free Infants and Toddlers Act, which would, except as specified, prohibit, on and after July 1, 2013, the manufacture, sale, or distribution in commerce of any ~~infant formula, liquid, baby food, or beverage~~ *bottle or cup* that contains bisphenol A, at a level above 0.1 parts per billion (ppb), *if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption by infants or children three years of age or younger. This prohibition would cease to be implemented for an item, on the date that a prescribed notice is posted regarding the department's adoption of related regulations.* The bill would also require manufacturers to use the least toxic alternative when replacing bisphenol A in containers in accordance with this bill.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Toxin-Free Infants and Toddlers Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The purpose of this act is to ensure that children are not
- 5 exposed to harmful toxins.
- 6 (b) Bisphenol A (BPA) was created as a synthetic sex hormone.
- 7 Today it is widely used in certain kinds of plastics and epoxy
- 8 resins, including those commonly found in baby bottles and infant
- 9 formula cans.
- 10 (c) Research by the federal Centers for Disease Control and
- 11 Prevention has found that 93 percent of Americans have BPA in
- 12 their bodies, and children have higher levels than adults.
- 13 (d) According to the National Institutes of Health, diet is the
- 14 main way people are exposed to BPA, due to leaching of the
- 15 chemical from containers into food and drink.
- 16 (e) The United States Food and Drug Administration has
- 17 measured BPA in canned infant formula at levels ranging from
- 18 0.1 parts per billion (ppb) to 13.2 ppb.
- 19 (f) The United States Geological Service has measured BPA in
- 20 wastewater dominated at levels up to 12 ppb. The agency's
- 21 detection limit for BPA was 0.09 ppb.
- 22 (g) BPA is a known hormone disruptor. The National Institutes
- 23 of Health is concerned that BPA exposure in children may lead to

1 problems with brain development, behavior, early puberty, breast
2 cancer, and prostate cancer. New research has also suggested that
3 BPA may interfere with metabolism and lead to obesity, heart
4 disease, and diabetes in humans.

5 (h) Out of concern for children's safety, Canada has banned the
6 use of BPA in baby bottles and is restricting its use in infant
7 formula cans.

8 (i) Many companies have phased out BPA from their products
9 or removed BPA-containing products from their store shelves or
10 both.

11 (j) It is in the best interest of California to significantly reduce
12 infants' and toddlers' exposure to BPA as soon as possible, and
13 to ultimately eliminate all exposure.

14 (k) California's Green Chemistry Initiative will not come to
15 fruition soon enough to protect the 550,000 babies born in
16 California each year from the unnecessary health risk posed by
17 BPA.

18 SEC. 3. Chapter 12 (commencing with Section 108940) is
19 added to Part 3 of Division 104 of the Health and Safety Code, to
20 read:

21
22 CHAPTER 12. BISPHENOL A
23

24 108940. (a) On and after July 1, 2013, no person shall
25 manufacture, sell, or distribute in commerce any bottle or cup that
26 contains bisphenol A, at a level above 0.1 parts per billion (ppb),
27 if the bottle or cup is designed or intended to be filled with any
28 liquid, food, or beverage intended primarily for consumption from
29 that bottle or cup by infants or children three years of age or
30 younger.

31 ~~(b) (1) On and after July 1, 2013, no person or entity shall~~
32 ~~manufacture, sell, or distribute in commerce any infant formula,~~
33 ~~liquid, baby food, or beverage containing bisphenol A, at a level~~
34 ~~above 0.1 ppb if the infant formula, liquid, baby food, or beverage~~
35 ~~is intended primarily for consumption by infants or children three~~
36 ~~years of age or younger.~~

37 ~~(2) For the purposes of this section, "baby food" means a~~
38 ~~prepared solid food consisting of a soft paste that is intended~~
39 ~~primarily for consumption by children three years of age or younger~~
40 ~~and that is commercially available.~~

1 ~~(e) The maximum amount of bisphenol A allowed pursuant to~~
2 ~~subdivision (b) shall be based on the infant formula, liquid, baby~~
3 ~~food, or beverage as it is intended or directed to be consumed.~~

4 ~~(d) Subdivisions (a) and (b) shall not apply to medical devices,~~
5 ~~(b) Subdivision (a) shall not apply to medical devices,~~ as defined
6 in Section 109920, or to food and beverage containers designed
7 or intended primarily to contain liquid, food, or beverages for
8 consumption by the general population.

9 ~~(e) Notwithstanding subdivisions (a) and (b), if the Department~~
10 ~~(c) Notwithstanding subdivision (a), if the Department of Toxic~~
11 Substances Control adopts a regulatory response described in
12 Section 25253 regarding the use of bisphenol A in an item that is
13 prohibited by this section, this section shall cease to be
14 implemented with respect to that item upon the date that the
15 department posts a notice on its Internet Web site that it has
16 adopted the response.

17 ~~(e)~~
18 ~~(d) Notwithstanding subdivisions (b) and (c) of Section 25257.1,~~
19 this section shall not be construed to prohibit or restrict the
20 authority of the Department of Toxic Substances Control to adopt
21 regulations to limit exposure to or reduce the level of hazard posed
22 by bisphenol A.

23 108941. (a) Manufacturers shall use the least toxic alternative
24 when replacing bisphenol A in containers in accordance with this
25 chapter.

26 (b) Manufacturers shall not replace bisphenol A, pursuant to
27 this chapter, with carcinogens rated by the United States
28 Environmental Protection Agency as carcinogenic to humans,
29 likely to be carcinogenic to humans, or suggestive evidence of
30 carcinogenic potential, or known to the state to cause cancer as
31 listed in the Safe Drinking Water and Toxic Enforcement Act of
32 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division
33 20) list of chemicals known to cause cancer or reproductive
34 toxicity.

35 (c) Manufacturers shall not replace bisphenol A, pursuant to
36 this chapter, with reproductive toxicants that cause birth defects,
37 reproductive harm, or developmental harm as identified by the
38 United States Environmental Protection Agency or listed in the
39 Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter

- 1 6.6 (commencing with Section 25249.5) of Division 20) list of
- 2 chemicals known to cause cancer or reproductive toxicity.

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